



W.P.No.8135 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.8135 of 2021

Mrs. Vijaya

Vs.

... Petitioner

- 1.The Commissioner for Municipal Administration,
11 Floor, Urban Administration BLDG,
(OPP. CIBA BLDG, 75, Santhome Hrd, MRC Nagar,
Raja Annamalai Puram, Chennai,
Tamil Nadu- 600028.
- 2.The Regional Director of Municipal Administration,
Jeeva Complex, Second Floor, No.1,
Grand Southern Trunk Road,
Tambaram West, Tambaram,
Chennai,
Tamil Nadu- 600045.
- 3.The Commissioner,
Pallavaram Municipality,
3rd Main Road, Pallavaram, New Colony,
Chrompet, Chennai – 600044.



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4.The Town and Country Planning Officer of
Pallavaram Municipality,
3rd Main Road, Pallavaram,
New Colony, Chrompet,
Chennai-600044.

5.Mr.Haribabu

6.Mrs.V.Shanthi

7.The Inspector of Police,
Chitlapakam Police Station,
Chitlapakam,
Chennai.

8.The Secretary,
Housing and Urban Development,
Secretariat, Fort St.George,
Chennai-600009.

(R8 Suo motu impleaded vide order
dated 30.09.2022 made in W.P.No.8135/2021
by RSMJ, KBJ)

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Mandamus, directing the third respondent to act in furtherance of the notice dated 18.03.2020 issued to the fifth and sixth respondent to lock and seal and demolition of the illegal building constructed by the fifth and sixth respondent in the schedule mentioned property, consequently direct the seventh respondent to give in protection to the third respondent during the demolishing of the illegal building in the schedule mentioned property.



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For Petitioner : Mr.A.Senthil Manohar
For Respondents : Mr.E.Vijay Anand
Additional Government Pleader
for R1,R2,R7 and R8
Mr.P.Srinivas for
respondents 3 and 4
Mr.R.Balaguruswamy
for respondents 5 and 6

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

This Writ Petition has been filed for a Mandamus, directing the third respondent to act in furtherance of the notice dated 18.03.2020 issued to the fifth and sixth respondents to lock and seal and demolition of the illegal building constructed by the fifth and sixth respondents in the schedule mentioned property, consequently direct the seventh respondent to give in protection to the third respondent during the demolition of the illegal building in the schedule mentioned property.

2. According to the petitioner, based on a complaint given by the petitioner, Locking and Sealing and Demolition Notice dated 18.03.2020, under Section 58 read with Section 85 of the Town and Country Planning Act, 1971 (hereinafter referred to as the Act, for the



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sake of brevity), has been issued by the third respondent/Commissioner, Pallavaram Municipality, to the fifth and sixth respondents for the unauthorized construction. Subsequently, another notice dated 27.08.2020 was issued by CMDA to discontinue occupation. Thereafter, no further action was taken by the respondent officials. Hence, the petitioner has filed the present writ petition with the aforesaid prayer.

3. When the matter came before this Court on 30.09.2022, it was informed that respondents 5 and 6 have filed Special Revision under Section 80A of the Act against the De-occupation Notice No.Na.Ka.No.4119/2019/F1, dated 26.08.2022, issued by the Tambaram Corporation. This court, by order, dated 30.09.2022, has given a direction to dispose of the revision, within a period of 3 months from the date of receipt of a copy of the order and report such disposal to this Court. Pursuant to the said interim directions of this Court, the revisional authority has dismissed the Revision by order vide Letter No.efile/78/2022-2/UD-7-1-HUD-DEPT-SECTT, dated 22.12.2022, by holding that there is no merit in the case. Thereafter, aggrieved by the said rejection order, the respondents 5 and 6 have filed Review Petition



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under Section 81 of the Act. The Government vide letter No.3856824/UD-VII(I)/2023-1, dated 20.03.2023, had rejected the review petition, by holding that review filed under Section 81 is not maintainable as per the statutory provisions.

4. At this juncture, Mr.P.Srinivas, learned Standing Counsel appearing for the respondents 3 and 4, has brought to the notice of this Court that under Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998, in case of any unauthorized construction, the concerned person can approach the Commissioner to regularize unauthorized construction by filing an application.

5. Learned counsel for the respondents 5 and 6 submitted before this Court that an application under Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998, has been submitted, and the same is pending consideration.

6. Learned Standing Counsel for respondents 3 and 4, submits that now that the said application filed by the respondents 5 and 6, is pending before the Standing Committee, the same will be forwarded to the Commissioner for taking steps under Section 135 of the Tamil Nadu Urban Local Bodies Act, 1998.



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7. Learned counsel for the petitioner also seeks liberty to make her objection before the authority concerned against the regularisation of the unauthorized construction.

8. Considering the submission of the learned counsel for the parties, we direct the third respondent Commissioner to dispose of the said application submitted by the respondents 5 and 6, on its own merits and in accordance with law, after affording an opportunity to the petitioner, to place her objection, if any. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. If the said application is rejected, then the third respondent Commissioner shall proceed for removal of the unauthorized construction in accordance with law.

9. With the above directions, the writ petition stands disposed of. There will be no orders as to costs.

[D.K.K., J.] [P.D.B., J.]
16.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn



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